

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1021-IWD-E TCEQ ID: RN102545142 CASE NO.: 34021
RESPONDENT NAME: City of Lubbock

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Alex Ty Cooke Generating Station, 3500 East Slaton Highway, 4,000 feet northwest of the intersection of Southeast Drive and East Slaton Highway, Lubbock, Lubbock County</p> <p>TYPE OF OPERATION: Electric power generating station</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 26, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable David Miller, Mayor, City of Lubbock, P. O. Box 2000, Lubbock, Texas 79457 Mr. Gary Zheng, C.E.O, City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: June 15, 2007</p> <p>Date of NOE Relating to this Case: June 21, 2007 (NOE)</p> <p>Background Facts: This was a record review for compliance with the water quality program. One significant program violation was observed.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total copper and free chlorine [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001895000 Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$4,350</p> <p>Total Deferred: \$870 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,480</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001895000 within 60 days after the effective date of this Agreed Order. The certification shall include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance, and be notarized by a State of Texas Notary Public.</p>

Additional ID No(s): WQ0001895000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	25-Jun-2007	Screening	28-Jun-2007	EPA Due	
	PCW	28-Jun-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Lubbock		
Reg. Ent. Ref. No.	RN102545142		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34021	No. of Violations	1
Docket No.	2007-1021-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Harvey Wilson
Multi-Media		EC's Team	EnforcementTeam 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 45% Enhancement Subtotals 2, 3, & 7 \$1,350

Notes: A 45% enhancement is recommended based on the facility having nine self-reported NOV's for the same or a similar violation.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary ☐ ☐

Ordinary ☐ ☐

N/A ☒ (mark with x)

Notes: The Respondent does not meet the good faith criteria.

Subtotal 6 \$0

Total EB Amounts \$166
Approx. Cost of Compliance \$2,000

0% Enhancement*
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$4,350

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount \$4,350

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$4,350

DEFERRAL 20% Reduction Adjustment -\$870

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY \$3,480

Screening Date 28-Jun-2007

Docket No. 2007-1021-IWD-E

PCW

Respondent City of Lubbock

Policy Revision 2 (September 2002)

Case ID No. 34021

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102545142

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 45% enhancement is recommended based on the facility having nine self-reported NOVs for the same or a similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 28-Jun-2007 Respondent City of Lubbock Case ID No. 34021 Reg. Ent. Reference No. RN102545142 Media [Statute] Water Quality Enf. Coordinator Harvey Wilson Violation Number 1	Docket No. 2007-1021-IWD-E <div style="text-align: right;"> PCW <small>Policy Revision 2 (September 2002) PCW Revision June 26, 2007</small> </div>																									
Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001895000 Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)																										
Violation Description Failed to comply with permit effluent limits (see attached table).																										
Base Penalty \$10,000																										
>> Environmental, Property and Human Health Matrix																										
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="4"></td> <td> Percent 10% </td> </tr> </tbody> </table>		Major	Moderate	Minor		Release					Actual			x		Potential									Percent 10%
	Major	Moderate	Minor																							
Release																										
Actual			x																							
Potential																										
				Percent 10%																						
>> Programmatic Matrix																										
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Falsification</th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="4"></td> <td> Percent 0% </td> </tr> </tbody> </table>	Falsification	Major	Moderate	Minor											Percent 0%										
Falsification	Major	Moderate	Minor																							
				Percent 0%																						
Matrix Notes	<div style="border: 1px solid black; padding: 5px;"> <p>A simplified model was used to evaluate concentration of metals in the discharge to determine whether the amounts of pollutants exceeded levels protective of human health or the environment. Total Free Chlorine was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.</p> </div>																									
Adjustment \$9,000																										
\$1,000																										
Violation Events																										
<table style="width: 100%;"> <tr> <td style="width: 40%;"> Number of Violation Events 3 </td> <td style="width: 20%; text-align: center;">123</td> <td style="width: 40%;"> Number of violation days </td> </tr> </table>		Number of Violation Events 3	123	Number of violation days																						
Number of Violation Events 3	123	Number of violation days																								
mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </tbody> </table>	daily		monthly		quarterly	x	semiannual		annual		single event														
daily																										
monthly																										
quarterly	x																									
semiannual																										
annual																										
single event																										
Violation Base Penalty \$3,000																										
<div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 80%;"> Three quarterly events are recommended. </div>																										
Economic Benefit (EB) for this violation																										
Statutory Limit Test																										
Estimated EB Amount \$166	Violation Final Penalty Total \$4,350																									
This violation Final Assessed Penalty (adjusted for limits) \$4,350																										

Economic Benefit Worksheet

Respondent City of Lubbock

Case ID No. 34021

Reg. Ent. Reference No. RN102545142

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Jul-2006	28-Feb-2008	1.7	\$166	n/a	\$166

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required is the day the noncompliance began. The Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$166

City of Lubbock
Docket No. 2007-1021-IWD-E
RN102545142
TPDES Permit No. WQ0001895000
Effluent Violations Table

Month/Year	Total Copper 0.07 mg/L Daily Avg	Free Chlorine 0.12 lbs/day Daily Avg	Free Chlorine 0.30 lbs/day Daily Max	Free Chlorine 0.20 mg/L Daily Avg	Free Chlorine 0.50 mg/L Daily Max
July, 2006	C	0.1356	C	C	C
October, 2006	0.085	C	C	C	C
November, 2006	C	0.1628	1.3894	0.253	0.680
January, 2007	0.086	C	C	C	C
mg/L = milligrams per liter lbs/day = pounds per day C = compliant					

Compliance History

Customer/Respondent/Owner-Operator:	CN600130736	City of Lubbock	Classification: AVERAGE	Rating: 2.35																																																
Regulated Entity:	RN102545142	ALEX TY COOKE GENERATING STATION	Classification: AVERAGE	Site Rating: 0.26																																																
ID Number(s):	<table border="0"> <tr> <td>AIR OPERATING PERMITS</td> <td>ACCOUNT NUMBER</td> <td>LN0057V</td> </tr> <tr> <td>AIR OPERATING PERMITS</td> <td>PERMIT</td> <td>9</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>1212</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>3807</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>PERMIT</td> <td>45596</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>ACCOUNT NUMBER</td> <td>LN0057V</td> </tr> <tr> <td>AIR NEW SOURCE PERMITS</td> <td>AFS NUM</td> <td>4830300001</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>EPA ID</td> <td>TXD981512205</td> </tr> <tr> <td>INDUSTRIAL AND HAZARDOUS WASTE GENERATION</td> <td>SOLID WASTE REGISTRATION # (SWR)</td> <td>37374</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>WQ0001895000</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>WQ0001895000</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>TPDES0028487</td> </tr> <tr> <td>WASTEWATER</td> <td>PERMIT</td> <td>TX0028487</td> </tr> <tr> <td>STORMWATER</td> <td>PERMIT</td> <td>TXR05L083</td> </tr> <tr> <td>WASTEWATER LICENSING</td> <td>LICENSE</td> <td>WQ0001895000</td> </tr> <tr> <td>UNDERGROUND INJECTION CONTROL</td> <td>PERMIT</td> <td>5X2600389</td> </tr> </table>				AIR OPERATING PERMITS	ACCOUNT NUMBER	LN0057V	AIR OPERATING PERMITS	PERMIT	9	AIR NEW SOURCE PERMITS	PERMIT	1212	AIR NEW SOURCE PERMITS	PERMIT	3807	AIR NEW SOURCE PERMITS	PERMIT	45596	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	LN0057V	AIR NEW SOURCE PERMITS	AFS NUM	4830300001	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD981512205	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	37374	WASTEWATER	PERMIT	WQ0001895000	WASTEWATER	PERMIT	WQ0001895000	WASTEWATER	PERMIT	TPDES0028487	WASTEWATER	PERMIT	TX0028487	STORMWATER	PERMIT	TXR05L083	WASTEWATER LICENSING	LICENSE	WQ0001895000	UNDERGROUND INJECTION CONTROL	PERMIT	5X2600389
AIR OPERATING PERMITS	ACCOUNT NUMBER	LN0057V																																																		
AIR OPERATING PERMITS	PERMIT	9																																																		
AIR NEW SOURCE PERMITS	PERMIT	1212																																																		
AIR NEW SOURCE PERMITS	PERMIT	3807																																																		
AIR NEW SOURCE PERMITS	PERMIT	45596																																																		
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	LN0057V																																																		
AIR NEW SOURCE PERMITS	AFS NUM	4830300001																																																		
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD981512205																																																		
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	37374																																																		
WASTEWATER	PERMIT	WQ0001895000																																																		
WASTEWATER	PERMIT	WQ0001895000																																																		
WASTEWATER	PERMIT	TPDES0028487																																																		
WASTEWATER	PERMIT	TX0028487																																																		
STORMWATER	PERMIT	TXR05L083																																																		
WASTEWATER LICENSING	LICENSE	WQ0001895000																																																		
UNDERGROUND INJECTION CONTROL	PERMIT	5X2600389																																																		
Location:	3500 E SLATON HIGHWAY, 4,000 FEET NORTHWEST OF THE INTERSECTION OF SOUTHEAST DRIVE AND EAST SLATON HIGHWAY, IN THE CITY OF LUBBOCK, LUBBOCK COUNTY, TX, 79404		Rating Date: 9/1/2006 Repeat Violator: NO																																																	
TCEQ Region:	REGION 02 - LUBBOCK																																																			
Date Compliance History Prepared:	June 27, 2007																																																			
Agency Decision Requiring Compliance History:	Enforcement																																																			
Compliance Period:	June 27, 2002 to June 27, 2007																																																			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History																																																				
Name:	Harvey Wilson		Phone:	239-0321																																																

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- | | |
|----|---|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
| | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. |
| | N/A |
| C. | Chronic excessive emissions events. |
| | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |

- | | | |
|---|------------|----------|
| 1 | 06/28/2002 | (3268) |
| 2 | 07/10/2002 | (4098) |
| 3 | 07/25/2002 | (176725) |
| 4 | 08/02/2002 | (6594) |
| 5 | 08/02/2002 | (6519) |
| 6 | 08/07/2002 | (6292) |
| 7 | 08/21/2002 | (176727) |
| 8 | 08/30/2002 | (7150) |

9	09/19/2002	(176730)
10	10/21/2002	(176733)
11	11/22/2002	(176736)
12	11/26/2002	(17864)
13	12/23/2002	(176738)
14	01/21/2003	(176740)
15	01/31/2003	(23406)
16	01/31/2003	(23460)
17	02/17/2003	(303268)
18	03/20/2003	(176716)
19	03/26/2003	(29008)
20	04/21/2003	(176719)
21	05/22/2003	(303272)
22	06/23/2003	(303273)
23	07/22/2003	(303275)
24	08/20/2003	(150855)
25	08/20/2003	(303276)
26	09/17/2003	(249069)
27	09/17/2003	(249063)
28	09/22/2003	(303277)
29	10/21/2003	(303278)
30	11/20/2003	(303279)
31	12/22/2003	(303280)
32	01/21/2004	(303281)
33	02/23/2004	(303269)
34	03/23/2004	(303270)
35	04/22/2004	(303271)
36	05/24/2004	(355217)
37	06/22/2004	(303274)
38	06/23/2004	(276520)
39	07/20/2004	(355218)
40	08/20/2004	(355219)
41	08/20/2004	(355222)
42	09/17/2004	(334603)
43	09/17/2004	(334587)
44	09/22/2004	(355220)
45	10/22/2004	(355221)
46	11/24/2004	(383638)
47	12/21/2004	(442452)
48	02/22/2005	(383636)
49	03/16/2005	(383637)
50	04/19/2005	(377369)
51	04/22/2005	(421456)
52	05/17/2005	(421457)
53	06/09/2005	(395058)
54	06/14/2005	(395382)
55	06/22/2005	(421458)
56	07/20/2005	(442449)
57	08/19/2005	(442448)
58	08/19/2005	(442450)
59	09/14/2005	(431833)
60	09/14/2005	(431837)
61	09/23/2005	(442451)
62	10/21/2005	(471546)
63	11/21/2005	(471547)
64	12/06/2005	(471548)
65	01/11/2006	(471549)
66	02/21/2006	(471544)
67	03/16/2006	(471545)
68	04/20/2006	(500172)
69	05/23/2006	(500173)
70	07/11/2006	(466960)
71	07/20/2006	(522281)
72	07/20/2006	(522282)

73 08/08/2006 (490427)
 74 08/21/2006 (522283)
 75 09/25/2006 (522284)
 76 10/05/2006 (514147)
 77 10/10/2006 (546962)
 78 11/27/2006 (546963)
 79 12/27/2006 (546964)
 80 06/21/2007 (564514)
 81 06/26/2007 (564421)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	10/31/2002	(176736)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/30/2004	(355217)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2004	(355222)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2005	(442450)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2005	(471547)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2006	(522283)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2006	(546963)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2006	(546964)		
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2007			
Self Report?	YES		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			

F. Environmental audits:
N/A

G. Type of environmental management systems
N/A

H. Voluntary on-site compliance assessment dates
N/A

I. Participation in a voluntary pollution reduction program
N/A

J. Early compliance
N/A

Sites outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LUBBOCK
RN102545142

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1021-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Lubbock ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates an electric power generating station at 3500 East Slaton Highway, 4,000 feet northwest of the intersection of Southeast Drive and East Slaton Highway, in the City of Lubbock, Lubbock County, Texas (the "Facility").
2. The City has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about June 26, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Three Hundred Fifty Dollars (\$4,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Three Thousand Four Hundred Eighty Dollars (\$3,480) of the

administrative penalty and Eight Hundred Seventy Dollars (\$870) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Lubbock has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with permit effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001895000 Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on June 15, 2007, as indicated in the table below.

Effluent Violations Table

Month/Year	Total Copper 0.07 mg/L Daily Avg	Free Chlorine 0.12 lbs/day Daily Avg	Free Chlorine 0.30 lbs/day Daily Max	Free Chlorine 0.20 mg/L Daily Avg	Free Chlorine 0.50 mg/L Daily Max
July, 2006	C	0.1356	C	C	C
October, 2006	0.085	C	C	C	C
November, 2006	C	0.1628	1.3894	0.253	0.680
January, 2007	0.086	C	C	C	C
mg/L = milligrams per liter lbs/day = pounds per day C = compliant					

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Lubbock, Docket No. 2007-1021-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the City shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0001895000. The certification shall include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

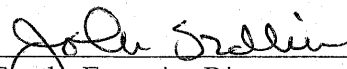
Water Section, Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Lubbock shall be made in writing to the Executive Director. Extensions are not effective until Lubbock receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

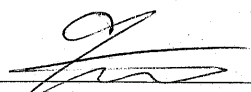
12/03/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

9-14-07
Date

GARY ZHENG

Name (Printed or typed)
Authorized Representative of
City of Lubbock

C.E.O

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

